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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,291

05/26/2006

Karim Benalikhoudja

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EXAMINER

VERAA, CHRISTOPHER

ART UNIT

PAPER NUMBER

3611

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,291	<b>Applicant(s)</b> BENALIKHOUDJA, KARIM	
	<b>Examiner</b> Christopher E. Veraa	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-27 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/28/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/9/06</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The application contains two PTO-1449 forms, one of which shows the correct application number and the other of which shows an incorrect application number. The form with the incorrect application number has not been considered by the examiner.

#### ***Claim Objections***

2. Claims 12-14 and 16 are objected to because of the following informalities: the term "mixing head" in claims 12-14 is taken to be the same as "head" used in claim 3. The term "outlet port" in claims 13 and 14 is taken to be the same as "outlet" used in claim 3. The claims should use consistent terminology. In claim 16, on line 3, "the lower shoulder of end" contains a typographical error. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12, 14-23, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation, "the socket end" on line

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2 of claim 12 lacks proper antecedent basis. The limitation "the fitting end" on line 1 of claim 14 lacks proper antecedent basis. The limitation "one of the lateral wings", on line 3 of claim 18, lacks proper antecedent basis. The list of odoriferous products on lines 2 and 3 of claim 26 includes the term, "or else." The list is thereby an open list and the scope of the claim cannot be determined and is therefore indefinite.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 5, 24, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu (JP2000267611A).

As to claim 1, Shimizu teaches a display with a frame (2), an odor diffuser, an odor diffusing element (6), a diffusion chamber (15), and an opening.

As to claim 2, the diffusion chamber has two openings and a fan for blowing air that mixes with the odoriferous stream.

As to claim 4, the diffusing element comprises an inlet into the chamber connected through a line to the outlet of the head on the odor diffuser.

As to claim 5, the inlet of the stream into the chamber is perpendicular to the first and second openings, since the openings are positioned along a horizontal

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direction and the stream is described as being "dropped" from the diffusing element.

As to claim 24, the odor diffuser is installed in the diffusion chamber of the diffusing element.

As to claim 26, the diffuser comprises a container containing odoriferous products.

As to claim 27, the diffuser and the diffusing element are lateral to the window and masked by the perimeter marginal zone.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 6, 7, 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (JP2000267611A) in view of Hechler (US-5826357).

Shimizu lacks a mechanism that makes use of a carrier gas to transmit the odiferous fluid into the diffusion chamber. Hechler teaches an imitation fireplace that includes an aerosol mechanism (24) for transmitting a "burning wood" smell into a room. It is well known in the art that aerosol devices make use of a carrier fluid that is gaseous under atmospheric conditions to render an active ingredient

airborne. It would be obvious to one of ordinary skill in the art to modify Shimizu to make use of an aerosol mechanism to apply the odiferous fluid to the air, since aerosol is a well-established technology and well-suited to the task of rendering an active ingredient airborne. Aerosol cans in general include a container and a head with an outlet.

As to claim 6, odoriferous gases are known in the art and one of ordinary skill would be inclined to and capable of incorporating such a gas into the aerosol mechanism described above if the odor of the gas were so desired.

As to claim 7, odoriferous liquids are known in the art and one of ordinary skill would be inclined to and capable of incorporating such a liquids into the aerosol mechanism described above if the odor of the liquid were so desired.

As to claim 8, an aerosol mechanism is a type of nebulizer.

As to claim 10, aerosol cans are commonly known to consist of a head that is crimped onto the rim of a pressurized container.

As to claim 11, Shimizu teaches that the

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being anticipated by Shimizu (JP2000267611A) in view of Rossman et al (US-5549247). Shimizu teaches a control unit but lacks a motorized air compressor. Rossman et al teaches a nebulizer for dispersing a scented fluid into a room, comprising an electric motor driven compressor. The device taught by Rossman et al has the motor in one module connected by a line to a second module with the container of odoriferous fluid and the head. It would be

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obvious to modify the design of Shimizu to include the device taught by Rossman et al in order to more efficiently and effectively disperse the scented fluid into the room.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being anticipated by Shimizu (JP2000267611A) in view of Hechler (US-5826357) and further in view of Bodelle et al (FR-2682794 A). Shimizu is silent as to how the container for the odoriferous fluid is supported within the structure. Bodelle et al teaches a device for delivering odors in coordination with an associated display. Bodelle et al includes a bottle of perfume (12) supported by a support (14) within the device. Hechler further teaches that the aerosol device is "refillable." It would be obvious to one of ordinary skill in the art to make the aerosol mechanism refillable by replacement of the container of odoriferous fluid, in order to prolong the useful life of the display apparatus.

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being anticipated by Shimizu (JP2000267611A) in view of Johnson (US-3844057). Shimizu lacks a substrate impregnated with an odoriferous product. Johnson teaches a device that combines an advertising display with an odor diffuser. The odor diffuser taught by Johnson includes a substrate that is impregnated with a volatile odoriferous product that is in the form of a liquid. It would be obvious to one of ordinary skill in the art to modify Shimizu to use an odor diffuser as taught by Johnson in order to diffuse scents to the observer of the advertising display.

***Allowable Subject Matter***

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12. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 12 and 14-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lin (US-6536910) teaches a vapor generating lampshade apparatus.

d'Ornano (US-2004/0194357) teaches a display with water atomizing nozzles.

Lee (US-5398070) teaches a smell emission device in combination with a television receiver.

Johnson (US-4208098) teaches a stereoscopic viewer with an odor dispenser.

Burford et al (US-1204934) teaches an advertising sign with an odor dispenser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Veraa whose telephone number is 571-272-2329. The examiner can normally be reached on Monday through Friday, 7:00 to 4:00.

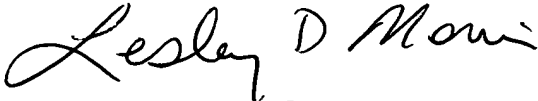


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CeV

  
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